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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL CHARLES KANE, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

RUSSELL ROAD FOOD AND BEVERAGE,
LLC, a Nevada Limited Liability Company
d/b/a/ CRAZY HORSE III GENTLEMAN'S
CLUB AT THE PLAYGROUND,

Defendant.

Case No.: 2:15-cv-00812-LDG-PAL

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

STIPULATED CONFIDENTIALITY AGREEMENT

To expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality, adequately protect material entitled to be kept confidential, and ensure that protection is afforded only to material so entitled, the parties stipulate and agree to the form of protective order:

1. Any Discovery Material¹ designated by a party as confidential shall not be used for any purpose that is not related to the present litigation and shall be deemed “Protected Information”.

a. Protected Information shall be disclosed only to “Qualified Persons.” Qualified Persons are limited to:

- i. The Court and its personnel as provided below;
- ii. The parties to this litigation and any employees thereof;
- iii. Counsel of record in this litigation, and their personnel;
- iv. Experts and non-attorney consultants retained by the parties for purposes of this litigation;
- v. A fact witness while being questioned during deposition or at trial;
- vi. The author(s) or recipient(s) of the document;
- vii. Litigation support consultants or vendors who provide litigation support services (e.g., photocopying, electronic discovery, videotaping, translating, preparing exhibits or demonstrations, etc.);
- viii. Court reporters recording and/or transcribing deposition testimony; and,
- ix. Any person expressly named and agreed to in writing by the parties or by further Order of the Court.

¹ “Discovery Material” shall mean and include, without limitation, Documents, including Electronically Stored Information (ESI), responses to interrogatories, requests for admission, or other discovery requests, physical objects, samples, CD-ROMs, tapes or other items, deposition transcripts and exhibits thereto, and information provided by or on behalf of the parties or any non-party witness pursuant to subpoena or otherwise in the course of discovery. “Documents” shall mean and include, without limitation, all written material, audio or video recordings, and all other tangible items, produced in whatever format (e.g., hard copy, electronic/digital, etc.) and on whatever media (e.g., hard copy, videotape, disk, diskette, hard drive, or otherwise) defined as permitted under Fed. R. Civ. P. 34.

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- 1 b. Qualified Persons under subsection 1(a)(iv) and 1(a)(vii) of this Stipulated
2 Confidentiality Agreement shall not have access to Protected Information without
3 having first read, acknowledged, and agreed to be bound by this Order
- 4 c. Protected Information and any copies thereof received pursuant to this Order shall
5 be maintained confidential by the receiving party, his/her attorney, other
6 representatives, and expert witnesses/consultants, and shall be used only for
7 purposes of this action, subject to limitations set forth herein. The persons or
8 entities identified as Qualified Persons, to whom Protected Information are
9 disclosed pursuant to this Order, shall keep such materials and information, and any
10 copies, notes, extracts, summaries, or descriptions of such material, within their
11 exclusive possession and control, shall treat all such copies, notes, extracts,
12 summaries, or descriptions of the Protected Information or any portion thereof as
13 Confidential, shall take all necessary and prudent measures to maintain the
14 confidentiality of all such materials or information, and shall not disseminate such
15 Protected Information other than in accordance with this Order. Failure to maintain
16 the confidentiality of Protected Information as required herein shall be deemed to
17 constitute a breach of this Stipulated Confidentiality Agreement and a contempt of
18 this Court's Protective Order.
- 19 d. Deposition testimony that counsel for the party or non-party witness tendering such
20 testimony, in good faith, believes refers to Protected Information shall be
21 designated as "Confidential" as appropriate, by such counsel by making a statement
22 on the record for inclusion in the deposition transcript or in writing within thirty
23 (30) calendar days after receipt of the transcript.
- 24 e. When Protected Information is designated as "Confidential" in a deposition
25 transcript, the counsel making the designation shall instruct the reporter to imprint
26 the legend "THIS TRANSCRIPT CONTAINS CONFIDENTIAL
27 INFORMATION" on the cover page of the transcript and to include, at the front of
28

1 the transcript, a page identifying all pages and lines designated "Confidential" in the
2 transcript.

3 f. To the extent that Protected Information or information obtained therefrom are used
4 in the taking of depositions and/or used as exhibits at trial, such documents or
5 information shall remain subject to the provisions of this Order, along with the
6 transcript pages of the deposition testimony and/or trial testimony dealing with the
7 Protected Information.

8 g. Any court reporter or transcriber who reports or transcribes testimony in this action
9 shall agree that all Protected Information designated as such under this Order shall
10 remain confidential and shall not be disclosed by them, except pursuant to the terms
11 of this Order, and that any notes or transcriptions of such testimony (and
12 accompanying exhibits) will be retained by the reporter or delivered to counsel of
13 record.

14 2. Any producing party may designate Discovery Material that is in its possession,
15 custody, or control to be produced to a receiving party as "confidential" that shall then be deemed
16 Protected Information. To designate information as "confidential", the producing party in good
17 faith reasonably believes that such Discovery Material contains non-public, confidential
18 information.

19 a. All designations of confidential shall be made in good faith by the designating party
20 and made at the time of disclosure, production, or tender.

21 b. The designation of confidential may be made by marking or placing the notice
22 "confidential" or substantially similar notice on the document, or, where a copy of
23 the original document is to be produced, on that copy.

24 c. Any document or any information designated as "confidential" in accordance with
25 the provisions of this Order shall only be used, shown, or disclosed as provided in
26 this Order.

27 d. The burden of proving that a Discovery Material is confidential is on the
28 designating party. Prior to designating any material as "confidential", the

designating party must make a bona fide determination that the material is, in fact, a trade secret or other confidential research, development, or commercial information subject to protection under Fed. R. Civ. P. 26(c)(1)(G). The designation as “confidential” shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the party making the designation, and that there is a good faith basis for such designation.

e. If a party disagrees with the “confidential” designation of any Protected Information, the party will so notify the designating party in writing. Counsel shall confer in good faith in an effort to resolve any dispute concerning such designation. The parties shall follow the procedures set forth in Local Civil Rule 26-7 governing discovery disputes to resolve whether the information should be treated as confidential. If the objection cannot be resolved by agreement, the designating party shall file and serve a motion to retain confidentiality, the timing of which shall be conducted in accordance with the applicable Local Civil Rules. The document or information whose confidential designation is objected to shall continue to be treated as Protected Information until the motion has been decided by the Court.

3. At present, the following information and things are agreed to be Protected Information:

- a. Records obtained from iZigg, Inc.; and,
- b. Member export spreadsheet.

4. Personal, identifying information of Defendant’s customers will be redacted from such Protected Information, including telephone numbers, when filed with the Court, except when filed under seal.

5. A party’s agreement to treat any document or thing as confidential in no respect prejudices the ability of that party from later challenging such a designation of confidentiality. However, all parties must continue treating such documents and things as confidential under this Stipulation until a court determines that such documents and things are not confidential.

1 6. This Order may not be waived, modified, abandoned, or terminated, in whole or in
2 part, except by an instrument in writing signed by the parties or pursuant to further Court Order. If
3 any provision of this Order shall be held invalid for any reason whatsoever, the remaining
4 provisions shall not be affected thereby.

5 7. After termination of this litigation, the provisions of this Order shall continue to be
6 binding. This Court retains jurisdiction over the parties and recipients of the Protected Documents
7 for enforcement of the provisions of this Order following termination of the litigation. This Order
8 shall bind the parties hereto as well as their attorneys and the parties' successors, executors,
9 personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries,
10 divisions, employees, agents, independent contractors, or other persons or organizations over
11 which they have control.

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1 This Stipulated Order may be modified only by a Stipulated Order of the parties or by the
2 Court for good cause shown.

3 **IT IS SO STIPULATED**, through Counsel of Record.

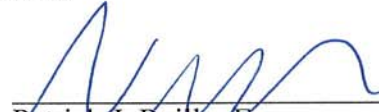
4 DATED this 10th day of December, 2015

5
6 /s/ Christopher A. Turtzo

7 Jeffrey I. Pitegoff
8 Christopher A. Turtzo
9 Morris Sullivan Lemkul & Pitegoff, LLP
3770 Howard Hughes Parkway, Suite 170
Las Vegas, NV 89169

10 *Attorneys for Plaintiff*

11 DATED this 10th day of December, 2015.

12
13 

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19 *Attorneys for Defendant*

20 **PROTECTIVE ORDER**

21 **IT IS HEREBY ORDERED** that the foregoing Agreement is approved.

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23 

24 HON. PEGGY A. LEEN
25 UNITED STATES MAGISTRATE JUDGE

26 Dated: December 16, 2015

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